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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/632,383	08/03/2000	John A. Ananian	NH1.P01	1189

7590 05/12/2004

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EXAMINER
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CHANNAVAJJALA, SRIRAMA T

ART UNIT	PAPER NUMBER
2177	22

DATE MAILED: 05/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/632,383

Applicant(s)

ANANIAN ET AL.

Examiner

Srirama Channavajjala

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 28 April 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 22-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 22-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### **Response to RCE**

#### **CONTINUED EXAMINATION UNDER 37 CFR 1.114 AFTER FINAL REJECTION**

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 4/28/2004 has been entered paper no. # 20 and a non-final Office action, paper no. # 22 as stated below
2. Claims 1-21 have been cancelled, paper no. # 21
3. Claims 22-30 have been added, paper no. # 21.
4. Examiner acknowledges applicant's response filed on 10/14/2003, paper no. 12
5. Claim 4 has been amended, paper no. # 4.
6. Examiner acknowledges applicants preliminary amendment filed on 12/2/2002, paper no. # 6

### **Drawings**

7. The drawings filed on 4/28/2004 are acceptable for examination purpose.

### **Information Disclosure Statement**

8. The information disclosure statement filed on 7/10/24/2003, paper no. # 13 has been considered and a copy was enclosed with this office action, paper no. # 14.
9. The information disclosure statement filed on 7/25/2001, paper no. # 4 has been considered and a copy was enclosed with this office action, paper no. # 8.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

10. Claims 22-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kemp, US 2001/0047251 [based on non-provisional of provisional application no. 60/186,756, filed on March 03, 2000] in view of Isherwood, US Patent No. 5918219.

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*If a copy of a provisional application listed on the bottom portion of the accompanying Notice of References Cited (PTO-892) form is not included with this Office action and the PTO-892 has been annotated to indicate that the copy was not readily available, it is because the copy could not be readily obtained when the Office action was mailed. Should applicant desire a copy of such a provisional application, applicant should promptly request the copy from the Office of Public Records (OPR) in accordance with 37 CFR 1.14(a)(1)(iv), paying the required fee under 37 CFR 1.19(b)(1). If a copy is ordered from OPR, the shortened statutory period for reply to this Office action will not be reset under MPEP § 710.06 unless applicant can demonstrate a substantial delay by the Office in fulfilling the order for the copy of the provisional application. Where the applicant has been notified on the PTO-892 that a copy of the provisional application is not readily available, the provision of MPEP § 707.05(a) that a copy of the cited reference will be automatically furnished without charge does not apply.*

11. As to Claim 22, Kemp teaches a system which including 'generating an interactive profile of a building for use in building and remodeling projects' [see Abstract]; 'a profiling engine executable on a remotely accessible server linked to a computer network' [fig 1-2, page 2, col 2, 0034, page 3, 0034, page 3, 0040, 0041, line 10-13], profiling engine executable on a remotely accessible server linked to a computer network corresponds to design expert system is connected through Internet as detailed in fig 2; 'the profiling engine being configured (a) to receive a plan set representing a physical description of the building at a point in time' [page 4, col 1, 0049, page 4, col 2, 0049, line 1-7], Kemp teaches various architectural components that including physical description for example buildings such as hospital and like; 'to create an electronic profile of the building based on the plan set' [page 4, col 1, 0048, page 4, col 2, 0049, line 5-6, 0050-0051]; 'to store the electronic profile in a profile database associated with the profiling engine' [page 4, col 2, 0050]; 'a user-accessible management application executable on a user computing device linked to the computer network, the management application being configured' [see fig 1-2, page 7, 0140, line 1-5], user-

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accessible management application executable on a user computing device corresponds to authorized user accessing CAD system [page 4, 0046]; '(a) to store asset data for the building in an asset profile database, the asset data including at least some data relating to component parts added to the building post-construction' [page 5, 0087]; '(b) to enable a user to assign user-assigned asset modify the asset data over time' [page 6, 00127-0131,0136], Kemp specifically suggests for example edit functions that enable user to modify data as required; '(c) to communicate the asset data, including the user-assigned properties over the computer network' [page 7, col 2, 0146], 'an application engine executable on a remotely accessible server linked to a computer network' [page 8, col 1, 0147, line 15-19]; 'to receive the asset data from the management application, and to store the asset data with the user-assigned properties in the building profile stored in the enhanced profile database' [page 8, col 1, 0149, line 6-17, page 8, col 2, line 1-3, page 8, 0150, line 14-17, fig 6A-B]; 'to make the profile accessible to remote query via a computer network' [page 8, col 2, 0151, line 1-6];

'a build-to-order application executed on a third party computer linked to the application engine via computer network' [page 8, col 2, 0153, line 1-9], 'the build to order application being configured, in response to an authorized query for a preliminary estimate of a building project' [page 9, col 1, 0155, line 9-16]; 'to access the profile of the building via the application engine over a computer network' [page 8, col 2, 0150, line 7-14]. It is however, noted that Kemp does not specifically teach 'generate a preliminary estimate for the project based on the profile of the building, wherein the

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preliminary estimate includes a preferred list of products for the component parts of the building', although Kemp teaches various information related to project for example: project schedule, construction start date, construction completion date, general function of the building and like [see page 8, 0147, fig 4]. On the other hand, Isherwood disclosed 'generate a preliminary estimate for the project based on the profile of the building, wherein the preliminary estimate includes a preferred list of products for the component parts of the building'[fig 4, col 7, line 57-67, col 8, line 1-12].

It would have been obvious to one of the ordinary skill in the art at the time of applicant's invention to incorporate the teachings of Isherwood into computer aided design or CAD 3-D design model because, both Kemp and Isherwood both are directed to design and construction of building, more specifically Kemp is directed to designing of building using 3-D model [see Abstract], while Isherwood is directed to building construction projects, more specifically, estimation, collection of historic records, material planning, scheduling of construction job [col 4, line 35-51], and they both are same field of endeavor. One of the ordinary skill in the art at the time of applicant's invention to combine the references, more specifically modifying Kemp's fig 4 to incorporate the project estimation related components of Isherwood's fig 4 because that would have allowed users of Kemp to control total project value within the defined time and budget, bringing the advantages of cost and time saving as suggested by Isherwood [see col 4, line 1-8], thus improving overall efficiency of the system.

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12. As to Claim 23, Isherwood disclosed 'preliminary estimate includes a cost estimate' [col 6, line 48-54, fig 2].
13. As to Claim 24, Kemp disclosed '(a) to identify the building code applicable to the building profiled, (b) to determine the compatibility of each product in the preferred list with the applicable building code' [page 7, col 2, 00143].
14. As to Claim 25, Kemp disclosed 'application engine is configured to select furnishings from the furnishings database that are compatible with the building based on the profile' [page 4, 0049, col 2, line 4-12, fig 6B, element 106]. On the other hand, Isherwood disclosed 'preliminary estimate' [col 6, line 48-54, fig 2].
15. As to Claim 26, Isherwood disclosed 'builder/contractor database, wherein the application engine is configured to obtain a price quotation from the builder/contractor database, and include the price quotation in the preliminary estimate' [fig 3,col 7, line 44-56].
16. As to Claim 27, Isherwood disclosed 'material database containing information on type, price, and supply of materials, wherein the application engine is configured to (a) select appropriate type of materials for the building project based on the electronic profile of the building' [col 5, line 1-20]; 'obtain price and supply information for material,



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and (c) include type, price, and supply information for materials in the preliminary estimate' [col 6, line 48-67].

17. As to Claim 28, Kemp teaches a system which including 'creating an electronic profile of a building, including a three-dimensional representation of the building and its component parts, the electronic profile being based on a plan set of the building [see Abstract, fig 6A, page 2, col 2, 0021, page 8, col 1, 0149];

'storing the electronic profile on a database associated with a remotely accessible server, the server being linked to a computer network and configured to execute an application engine configured to communicate with the database and modify the stored profile' [page 8, col 2, 0151-0152];

'receiving asset data input at a management application accessed by an authorized user via a user computing device' [fig 7, page 8, col 2, 0151];

'at least a portion of which asset data represents one or more post-construction component parts added to the building after initial construction of the features shown in the plan set' [page 8, col 1, fig 5, 0148];

'communicating the asset data input from the management application to an application engine on the remotely accessible server' [fig 2];

'updating the electronic profile of the building to include the asset data input from the authorized user' [page 8, col 2, 0153];

It is however, noted that Kemp does not specifically teach 'preliminary estimate for a project based on the profile of the building, third party server linked to a computer

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network', although Kept teaches various information related to project for example: project schedule, construction start date, construction completion date, general function of the building and like [see page 8, 0147, fig 4]. On the other hand, Isherwood disclosed "preliminary estimate for a project based on the profile of the building,' [fig 4, col 7, line 57-67, col 8, line 1-12], 'third party server linked to a computer network' [col 8, line 1-3].

It would have been obvious to one of the ordinary skill in the art at the time of applicant's invention to incorporate the teachings of Isherwood into computer aided design or CAD 3-D design model because, both Kemp and Isherwood both are directed to design and construction of building, more specifically Kemp is directed to designing of building using 3-D model [see Abstract], while Isherwood is directed to building construction projects, more specifically, estimation, collection of historic records, material planning, scheduling of construction job [col 4, line 35-51], and they both are same field of endeavor. One of the ordinary skill in the art at the time of applicant's invention to combine the references, more specifically modifying Kemp's fig 4 to incorporate the project estimation related components of Isherwood's fig 4 because that would have allowed users of Kemp to control total project value within the defined time and budget, bringing the advantages of cost and time saving as suggested by Isherwood [see col 4, line 1-8], thus improving overall efficiency of the system.

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18. As to Claim 29-30, Isherwood disclosed 'preliminary estate includes a list of recommended products based on parameters in the electronic profile' [col 6, line 48-54, fig 2.4].

### ***Response to Arguments***

Applicant's arguments at page 6-7 with respect to claims 22-30 have been considered but are moot in view of the new ground(s) of rejection..

### ***Conclusion***

#### **The prior art made of record**

- a. US Patent No. 2001/0047251
- b. US Patent No. 5918219
- c. US Prov.Appl. 60/186,756

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure

- d. US Patent No. 5761674
- e. US Patent No. 6360236
- f. US Patent No. 5950206
- g. US Patent No. 6236409
- h. US Patent No. 6721769
- i. US Patent No. 6085126
- j. US Patent No. 6345258
- k. US Patent No. 5493679

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- l. US Patent No. 2004/0083157
- m. Tan, Hock, S et al., "Knowledge construction in education: A web database for building interactive 3D environments 5 pages [date unknown]
- n. Anil S et al., « Internet-based interactive construction management learning system," internet based construction management learning conference, Phoenix, AZ Dec 1999, session 3226, 10 pages
- o. Daniel W H, et al. "real world applications of construction process simulation", proceedings of the 1999 winter simulation conference, pp 956-962
- p. Vineet R. Kamat et al., « 3D visualization of simulated construction operations", proceedings of the 2000 winter simulation conference, pp 1933-1937
- q. Norman Murray et al., " A virtual environment for building construction " [date unknown], 6 pages

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Srirama Channavajjala whose telephone number is (703) 308-8538. The examiner can normally be reached on Monday-Friday from 8:00 AM to 5:30 PM Eastern Time. The TC2100's Customer Service number is (703) 306-5631.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John E. Breene, can be reached on (703) 305-9790. The fax phone numbers for the organization where the application or proceeding is assigned are as follows:

703/746-7238	<b>(After Final Communication)</b>
703/872-9306	<b>(Offical Communications)</b>
703/746-7240	<b>(For Status inquiries, draft communication)</b>

Any inquiry of general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-9600.

sc *fw*  
Patent Examiner.  
May 7, 2004.